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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------------|------------------------|
| 10/572,713 | 03/17/2006 | Martin Oberhomburg | 2003P01023WOUS | 4393 |
| 46726 7590 05/25/2007 BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562 | | | EXAMINER NDUBIZU, CHUKA CLEMENT | |
| | | | ART UNIT 3749 | PAPER NUMBER |
| | | | MAIL DATE 05/25/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|-------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/572,713 | Applicant(s) OBERHOMBURG, MARTIN | |
| | Examiner Chuka C. Ndubizu | Art Unit 3749 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on through 11/09/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>031706</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Specification

The disclosure is objected to because of the following informalities: Page 3 line 30, 31 recites, " the gas valve control arrangement 5 is located in the main pipe 5". The main pipe is 3 not 5 and the gas valve arrangement cannot be located in the pipe. Also page 6 line 10 recites, "Bt touching" instead of "By touching".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3749

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Repper et al 2005/0089809. Repper teaches the invention as claimed (figs 1-3) a gas cooking surface, comprising: at least one gas burner 114; a gas supply 123 coupled to said gas burner for supplying gas thereto; a control device 111 for adjusting the heating capacity stages of said gas burner; said gas burner depending on said adjusted heating capacity stage, operates in one of a continuous mode in which said gas is supplied continuously to said gas burner (page 4, para [0042, 0043]) or a clocked mode in which said gas burner is supplied with said gas in an intermittent manner (page 4 para [0044]); said control device including a touch contact 119, 115 for switching between said heating capacity stages (see fig 1); said touch contact switches said heating capacity stages associated with said continuous mode and also with said clocked mode (page 2 para [0016]); and said control device automatically adjusts said burner to a starting heating capacity stage in which said gas burner operates in said continuous mode when said gas burner is switched on by said touch contact (page 4 para [0044]); wherein said gas burner is switched on by a first actuation of said touch contact (page 5 para [0053]); wherein said starting heating capacity stage automatically adjusted by said control device is a minimal heating capacity stage in said continuous mode (page 4 para [0044]); wherein said touch contact having a plus button 203 (right) for increasing the heating capacity and a minus button 203 (left) for reducing said heating capacity; wherein said gas burner

Art Unit: 3749

operates in an upper heating capacity range in said continuous mode and in a lower heating capacity range in said clocked mode (page 4 para [0043, line 10-12; para [0044 line 1-3]); wherein control system is capable of setting continuous mode when said minus button is first actuated to switch the said gas burner on (page 5 para [0053]); wherein control system is capable of switching off the gas burner by simultaneously actuating said plus button and the minus button (page 6 para [0053 line 1-5]); wherein control system is capable of switching off the gas burner by actuating said plus button in a maximum heating power stage in said clocked mode (page 5 para [0053]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 3749

2. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Repper in view of Damrath et al 5,938,425. Repper teaches the invention as claimed and as discussed above except for the cooking surface wherein said gas burner is switched on by a first actuation of at least one of said plus button and said minus button.

Damrath discloses a gas cooking surface (fig 1) comprising: one gas burner 2; a gas supply 1 coupled to said gas burner for supplying gas thereto; a control device 4 for adjusting the heating capacity stages of said gas burner; wherein said gas burner is switched on by a first actuation of at least one of said plus button and said minus button (one button turns gas on, column 8 line 47-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Repper's gas cooking surface by including all the limitations taught by Damrath and recited above in order to provide a cooking surface where the control device can be made inexpensively using commercially available components as taught by Damrath (column 7 line 1,2).

3. Claims 18-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Repper in view of Frasnetti et al 5,924,857. Repper teaches the invention as claimed and as discussed above. However, Repper does not teach a gas cooking surface, wherein said gas burner is switched off by actuating said minus button in a minimum heating power stage in said clocked mode.

Art Unit: 3749

Frasnetti discloses a controlled gas burner (fig 1), wherein said gas burner is switched off by actuating the minus button in a minimum heating power stage (column 2 line 35-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Repper's gas cooking surface by including all the limitations taught by Frasnetti and recited above in order to provide a cooking surface where the control device can deliver both high and low heat output and at the same time capable of fine precise adjustment over the entire span of cooking levels as taught by Repper (page 2 para [0008] line 1-5).

With regard to the method of operation claims 22 to 31, having met the structural limitations in Repper in view of Damrath and Frasnetti as discussed above, the limitations of method of operation recited in claims 22 to 31 are obviously met.

Conclusion

The prior art made of record in the attached USPTO 892 and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuka C. Ndubizu whose telephone number is 571-272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571-272-4881. The

Art Unit: 3749

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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